

**MONROE COUNTY TOURIST DEVELOPMENT COUNCIL'S**

# **OPERATIONS MANUAL**

## **SECTION VII**

### **STATE STATUTE ENABLING ACT**

*State Statute Enabling Act*  
*>>Continued*

STATE OF FLORIDA STATUTE 125.0104  
**Tourist Development Tax; Procedure for Levying;**  
**Authorized Uses; Referendum; Enforcement**

(1) SHORT TITLE--This section shall be known and may be cited as the "Local Option Tourist Development Act."

(2) APPLICATION; DEFINITIONS -

(a) *Application* -- The provisions contained in chapter 212 apply to the administration of any tax levied pursuant to this section.

(b) *Definitions* -- For purposes of this section:

1. "Promotion" means marketing or advertising designed to increase tourist - related business activities.

"Tourist" means a person who participates in trade or recreation activities outside the county of his or her permanent residence or who rents or leases transient accommodations as described in paragraph (3)(a).

"Retained Spring Training franchise" means a spring training franchise that had a location in this state on or before December 31, 1998, and that has continuously remained at that location for at least 10 years preceding that date.

(3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE--

(a) It is declared to be the intent of the Legislature that every person who rents, leases, or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, rooming house, mobile home park, recreational vehicle park, or condominium for a term of 6 months or less is exercising a privilege which is subject to taxation under this section, unless such person rents, leases, or lets for consideration any living quarters or accommodations which are exempt according to the provisions of chapter 212.

(b) Subject to the provisions of this section, any county in this state may levy and impose a tourist development tax on the exercise within its boundaries of the taxable privilege described in paragraph (a), except that there shall be no additional levy under this section in any cities or towns presently imposing a municipal resort tax as authorized under chapter 67-930, Laws of Florida, and this section shall not in any way affect the powers and existence of any tourist development authority created pursuant to chapter 67-930, Laws of Florida. No county, authorized to levy a convention development tax pursuant to s. 212.0305, or to s. 8 of chapter 84-324, Laws of Florida, shall be allowed to levy more than the 2-percent tax authorized by this section. A county may elect to levy and impose the tourist development tax in a subcounty special district of the county. However, if a county so elects to levy and impose the tax on a subcounty special district basis, the district shall embrace all or a significant contiguous portion of the county, and the county shall assist the Department of Revenue in identifying the rental units subject to tax in the district.

(c) The tourist development tax shall be levied, imposed, and set by the governing board of the county at a rate of 1 percent or 2 percent of each dollar and major fraction of each dollar of the total consideration charged for such lease or rental. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary consideration.

(d) In addition to any 1-percent or 2-percent tax imposed under paragraph (c), the governing board of the county may levy, impose, and set an additional 1 percent of each dollar above the tax rate set under paragraph (c) by the extraordinary vote of governing board for the purposes set forth in subsection (5) or by referendum approval by the registered electors within the county or subcounty special district. No county shall levy, impose, and set the tax authorized

under this paragraph unless the county has imposed the 1-percent or 2-percent tax authorized under paragraph (c) for a minimum of 3 years prior to the effective date of the levy and imposition of the tax authorized by this paragraph. Revenues raised by the additional tax authorized under this paragraph shall not be used for debt service on or refinancing of existing facilities as specified in subparagraph (5) (a) 1. unless approved by a resolution adopted by an extraordinary majority of the total membership of the governing board of the county. If the 1-percent or 2-percent tax authorized in paragraph (c) is levied within a subcounty special taxing district, the additional tax authorized in this paragraph shall only be levied therein. The provisions of paragraphs (4)(a) through (d) shall not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the ordinance by the governing board or the first day of any subsequent month as may be specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of such ordinance.

(e) The tourist development tax shall be in addition to any other tax imposed pursuant to chapter 212 and in addition to all other taxes and fees and the consideration for the rental or lease.

(f) The tourist development tax shall be charged by the person receiving the consideration for the lease or rental, and it shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such lease or rental.

(g) The person receiving the consideration for such rental or lease shall receive, account for, and remit the tax to the Department of Revenue at the time and in the manner provided for persons who collect and remit taxes under s. 212.03. The same duties and privileges imposed by chapter 212 upon dealers in tangible property, respecting the collection and remission of tax; the making of returns; the keeping of books, records and accounts; and compliance with the rules of the Department of Revenue in the administration of that chapter shall apply to and be binding upon all persons who are subject to the provisions of this section. However, the Department of Revenue may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed \$25.

(h) The Department of Revenue shall keep records showing the amount of taxes collected, which records shall also include records disclosing the amount of taxes collected for and from each county in which the tax authorized by this section is applicable. These records shall be open for inspection during the regular office hours of the Department of Revenue, subject to the provisions of s. 213.053.

(i) Collections received by the Department of Revenue from the tax, less costs of administration of this section, shall be paid and returned monthly to the county which imposed the tax, for use by the county in accordance with the provisions of this section. They shall be placed in the county tourist development trust fund of the respective county, which shall be established by each county as a condition precedent to receipt of such funds.

(j) The Department of Revenue is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature.

(k) The Department of Revenue shall promulgate such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section.

(l) In addition to any other tax which is imposed pursuant to this section, a county may impose up to an additional 1-percent tax on the exercise of the privilege described in paragraph (a) by majority vote of the governing board of the county in order to:

1. Pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of a professional sports franchise facility, or the acquisition, construction,

reconstruction, or renovation of a retained spring training franchise facility, either publicly owned and operated, or publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design cost incurred prior to the issuance of such bonds.

2. Pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of a convention center, and to pay the planning and design costs incurred prior to the issuance of such bonds.

3. Pay the Operation and maintenance costs of a convention center for a period of up to 10 years. Only counties that have elected to levy the tax initially for the purposes authorized in subparagraph 2. may use the tax for the purposes enumerated in subparagraph 2. Any county that elects to levy the tax for the purpose authorized in subparagraph 2 after July 1, 2000, may use the proceeds of the tax to pay the operation and maintenance costs of a convention center for the life of the bonds.

The provision of paragraph (b) which prohibits any county authorized to levy a convention development tax pursuant to s. 212.0305 from levying more than the 2-percent tax authorized by this section, and the provisions of paragraphs (4)(a) through (d), shall not apply to the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the ordinance by the governing board or the first day of any subsequent month as may be specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of such ordinance.

(m)1. In addition to any other tax which is imposed pursuant to this section, a high tourism impact county may impose an additional 1-percent tax on the exercise of the privilege described in paragraph (a) by extraordinary vote of the governing board of the county. The tax revenues received pursuant to the paragraph shall be used for one or more of the authorized uses pursuant to subsection (5).

2. A county is considered to be a high tourism impact county after the Department of Revenue has certified to such county that the sales subject to the tax levied pursuant to this section exceeded \$600 million during the previous calendar year, or were at least 18 percent of the county's total taxable sales under of chapter 212 where the sales subject to the tax levied pursuant to this section were a minimum of \$200 million, except that no county authorized to levy a convention development tax pursuant to s. 212.0305 shall be considered a high tourism impact county. Once a county qualifies as a high tourism impact county, it shall retain this designation for the period the tax is levied pursuant to this paragraph.

3. The provisions of paragraphs (4)(a) through (d) shall not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the ordinance by the governing board or the first day of any subsequent month as may be specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of such ordinance.

<sup>1</sup>(n) In addition to any other tax that is imposed under this section, a county that has imposed the tax under paragraph (l) may impose an additional tax that is no greater than 1 percent on the exercise of the privilege described in paragraph (a) by a majority plus one vote of the membership of the board of county commissioners in order to pay the debt service on bonds issued to finance:

The construction, reconstruction, or renovation of a facility either publicly owned and operated, or publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and

design costs incurred prior to the issuance of such bonds for a new professional sports franchise as defined in s. 288.1162.

The acquisition, construction, reconstruction, or renovation of a facility either publicly owned or operated, or publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise of financial capability to operate such facility, and to pay the planning and design costs incurred prior to the issuance of such bonds for a retained spring training franchise.

A county that imposes the tax authorized in this paragraph may not expend any ad valorem tax revenues for the acquisition, construction, reconstruction, or renovation of that facility. The provision of paragraph (b) which prohibits any county authorized to levy a convention development tax pursuant to s. 212.0305 from levying more than the 2-percent tax authorized by this section shall not apply to the additional tax authorized by this paragraph in counties which levy convention development taxes pursuant to s. 212.0305(4)(a). Subsection (4) does not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph is the first day of the second month following approval of the ordinance by the board of county commissioners or the first day of any subsequent month specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of the ordinance.

(4) ORDINANCE LEVY TAX; PROCEDURE--

(a) The tourist development tax shall be levied and imposed pursuant to an ordinance containing the county tourist development plan prescribed under paragraph (c), enacted by the governing board of the county. The ordinance levying and imposing the tourist development tax shall not be effective unless the electors of the county or the electors in the subcounty special district in which the tax is to be levied approve the ordinance authorizing the levy and imposition of the tax, in accordance with subsection (6). The effective date of the levy and imposition of the tax shall be the first day of the second month following approval of the ordinance by referendum, as prescribed in subsection (6), or the first day of any subsequent month as may be specified in the ordinance. A certified copy of the ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of such ordinance. The governing authority of any county levying such tax shall notify the department, within 10 days after approval of the ordinance by referendum, of the time period during which the tax will be levied.

(b) At least 60 days prior to the enactment of the ordinance levying the tax, the governing board of the county shall adopt a resolution establishing and appointing the members of the county tourist development council, as prescribed in paragraph (e), and indicating the intention of the county to consider the enactment of an ordinance levying and imposing the tourist development tax.

(c) Prior to enactment of the ordinance levying and imposing the tax, the county tourist development council shall prepare and submit to the governing board of the county for its approval a plan for tourist development. The plan shall set forth the anticipated net tourist development tax revenue to be derived by the county for the 24 months following the levy of the tax; the tax district in which the tourist development tax is proposed; and a list, in the order of priority, of the proposed uses of the tax revenue by specific project or special use as the same are authorized under subsection (5). The plan shall include to approximate cost or expense allocation for each specific project or special use.

(d) The governing board of the county shall adopt the county plan for tourist development as part of the ordinance levying the tax. After enactment of the ordinance levying and imposing the tax, the plan of tourist development may not be substantially amended except

by ordinance enacted by an affirmative vote of a majority plus one additional member of the governing board.

(e) The governing board of each county which levies and imposes a tourist development tax under this section shall appoint an advisory council to be known as the "Monroe County Tourist Development Council." The Council shall be established by ordinance and composed of nine members who shall be appointed by the governing board. The chair of the governing board of the county or any other member of the governing board as designated by the chair shall serve on the council. Two members of the council shall be elected municipal officials, at least one of whom shall be from the most populous municipality in the county or subcounty special taxing district in which the tax is levied. Six members of the council shall be persons who are involved in the tourist industry and who have demonstrated an interest in tourist development, of which members, not less than three nor more than four shall be owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax. All members of the council shall be electors of the county. The governing board of the county shall have the option of designating the chair of the council or allowing the council to elect a chair. The chair shall be appointed or elected annually and may be reelected or reappointed. The members of the council shall serve for staggered terms of 4 years. The terms of office of the original members shall be prescribed in the resolution required under paragraph (b). The council shall meet at least once each quarter and, from time to time, shall make recommendations to the county governing board for the effective operation of the special projects or for uses of the tourist development tax revenue and perform such other duties as may be prescribed by county ordinance or resolution. The council shall continuously review expenditures of revenues from the tourist development trust fund and shall receive, at least quarterly, expenditure reports from the county governing board or its designee. Expenditures which the council believes to be unauthorized shall be reported to the county governing board and the Department of Revenue. The governing board and the department shall review the findings of the council and take appropriate administrative or judicial action to ensure compliance with this section. The changes in the composition of the membership of the tourist development council mandated by chapter 86-4, Laws of Florida, shall not cause the interruption of the current term of any person who is a member of council on October 1, 1996.

(5) AUTHORIZED USES OF REVENUE--

(a) All tax revenues received pursuant to this section by a county imposing the tourist development tax shall be used by that county for the following purposes only:

1. To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums or museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied. Tax revenues received pursuant to this section may also be used for promotion of zoological parks that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public. However, these purposes may be implemented through service contracts and leases with lessee's with sufficient expertise or financial capability to operate such facilities;

2. To promote and advertise tourism in the State of Florida and nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, he activity, service, venue, or event, shall have as one of its main purposes the attraction of tourists as evidence by the promotion of the activity, service, venue, or event to tourists;

3. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar

associations in the county; which may include any indirect administrative costs for services performed by the county on behalf of the promotion agency; or

4. To finance beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup, or restoration of inland lakes and rivers to which there is public access as those used related to the physical preservation of the beach, shore line, or inland lake or river. In counties of less than 100,000 population, no more than 10 percent of the revenues from the tourist development tax may be used for beach park facilities.

(b) Tax revenues received pursuant to this section by a county of less than 600,000 population imposing a tourist development tax may only be used by that county for the following purposes in addition to those purposes allowed pursuant to paragraph (a): to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate or promote one or more zoological parks, fishing piers or nature centers which are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public. All population figures relating to this subsection shall be based on the most recent population estimates prepared pursuant to the provisions of s. 186.901. These population estimates shall be those in effect on July 1 of each year.

(c) The revenues to be derived from the tourist development tax may be pledged to secure and liquidate revenue bonds issued by the county for the purposes set forth in subparagraphs (a) 1. and (a) 4. or for the purpose of refunding bonds previously issued for such purposes, or both; however, no more than 50 percent of the revenues from the tourist development tax may be pledged to secure and liquidate revenue bonds or revenue refunding bonds issued for the purposes set forth in subparagraph (a)4. Such revenue bonds and revenue refunding bonds may be authorized and issued in such principal amounts, with such interest rates and maturity dates, and subject to such other terms, conditions, and covenants as the governing board of the county shall provide. The Legislature intends that this paragraph shall be full and complete authority for accomplishing such purposes, but such authority shall be supplemental and additional to, and not in derogation of, any powers now existing or later conferred under law.

(d) Any use of the local option tourist development tax revenues collected pursuant to this section for a purpose not expressly authorized by paragraph (3)(l) or paragraph (3)(n) or paragraph (a), paragraph (b), or paragraph (c) of this subsection is expressly prohibited.

(6) REFERENDUM--

(a) No ordinance enacted by any county levying the tax authorized by paragraphs (3)(b) and (c) shall take effect until the ordinance levying and imposing the tax has been approved in a referendum election by a majority of the electors voting in such election in the county or by a majority of the electors voting in the subcounty special tax district affected by the tax.

(b) The governing board of the county levying the tax shall arrange to place a question on the ballot at the next regular or special election to be held within the county, substantially as follows:

\_\_\_\_\_ FOR the Tourist Development Tax

\_\_\_\_\_ AGAINST the Tourist Development Tax

(c) If a majority of the electors voting on the question approve the levy, the ordinance shall be deemed to be in effect.

(d) In any case where a referendum levying and imposing the tax has been approved pursuant to this section and 15 percent of the electors in the county or 15 percent of the electors in the subcounty special district in which the tax is levied file a petition with the board of county commissioners for a referendum to repeal the tax, the board of county commissioners shall



cause an election to be held for the repeal of the tax which election shall be subject only to the outstanding bonds for which the tax has been pledged. However, the repeal of the tax shall not be effective with the respect to any portion of taxes initially levied in November 1989, which has been pledged or is being used to support bonds under paragraph (3)(d) or paragraph (3)(l) until the retirement of those bonds.

**AUTOMATIC EXPIRATION ON RETIREMENT OF BONDS. --**

Anything in this section to the contrary notwithstanding, if the plan for tourist development approved by the governing board of the county, as amended from time to time pursuant to paragraph (4) (d), includes the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, or auditorium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization, the county ordinance levying and imposing the tax shall automatically expire upon the later of:

Retirement of all bonds issued by the county for financing the same; or

The expiration of any agreement by the county for the operation or maintenance, or both, of a publicly owned and operated convention center, sports arena, coliseum, auditorium, or museum.

However, nothing herein shall preclude that county from amending the ordinance extending the tax to the extent that the board of the county determines to be necessary to provide funds with which to operate, maintain, repair, or renew and replace a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, or museum or from enacting an ordinance pursuant to the provisions of this section reimposing a tourist development tax, upon or following the expiration of the previous ordinance.

**(8) PROHIBITED ACTS; ENFORCEMENT; PENALTIES--**

(a) Any person who is taxable hereunder who fails or refuses to charge and collect from the person paying any rental or lease the taxes herein provided, either by himself or herself or through agents or employees, is in addition to being personally liable for the payment of the tax, guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, or s. 775.083.

(b) No person shall advertise or hold out to the public in any manner, directly or indirectly, that he or she will absorb all or any part of the tax, that he or she will relieve the person paying the rental or the payment of all or any part of the tax, or that the tax will not be added to the rental or lease consideration or, when added, that it or any part thereof will be refunded or refused, either directly or indirectly, by any method whatsoever. Any person who willfully violates any provision of this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083.

(c) The tax authorized to be levied by this section shall constitute a lien on the property of the lessee, customer, or tenant in the same manner as, and shall be collectible as are, liens authorized and imposed in ss. 713.67, 713.68, and 713.69.

**(9) COUNTY TOURISM PROMOTION AGENCIES--**In addition to any other powers and duties provided for agencies created for the purpose of tourism promotion by a county levying the tourist development tax, such agencies are authorized and empowered to:

(a) Provide, arrange, and make expenditures for transportation, lodging, meals, and other reasonable and necessary items and services for such persons, as determined by the head of the agency, in connection with the performance of promotional and other duties of the agency. However, entertainment expenses shall be authorized only when meeting with travel writers, tour brokers, or other persons connected with tourist industry. All travel and entertainment-related expenditures in excess of \$10 made pursuant to this subsection shall be substantiated by paid bills therefor. Complete and detailed justification for all travel and

entertainment-related expenditures made pursuant to this subsection shall be shown on the travel expense voucher or attached thereto. Transportation and other incidental expenses, other than those provided in s. 112.061, shall only be authorized for officers and employees of the agency, other authorized persons, travel writers, tour brokers, or other persons connected with the tourist industry when traveling pursuant to paragraph (c). All other transportation and incidental expenses pursuant to this subsection shall be as provided in s. 112.061. Operational or promotional advancements, as defined in s. 288.35(4), obtained pursuant to this subsection, shall not be commingled with any other funds.

(b) Pay by advancement or reimbursement, or a combination thereof, the costs of per diem and incidental expenses of officers and employees of the agency and other authorized persons, for foreign travel at the current rates as specified in the federal publication "Standardized Regulations (Government Civilians, Foreign Areas)." The provisions of this paragraph shall apply for any officer or employee of the agency traveling in foreign countries for the purposes of promoting tourism and travel to the county, if such travel expenses are approved and certified by the agency head from whose funds the traveler is paid. As used in this paragraph, the term "authorized person" shall have the same meaning as provided in s. 112.061(2)(e). With the exception of provisions concerning rates of payment for per diem, the provisions of s. 112.061 are applicable to the travel described in this paragraph. As used in this paragraph, "foreign travel" means all travel outside the United States. Persons traveling in foreign countries pursuant to this subsection shall not be entitled to reimbursement or advancements pursuant to s. 112.061(6)(a)2.

(c) Pay by advancement or reimbursement, or by a combination thereof, the actual reasonable and necessary costs of travel, meals, lodging, and incidental expenses of officers and employees of the agency and other authorized persons when meeting with travel writers, tour brokers, or other persons connected with the tourist industry, and while attending or traveling in connection with travel or trade shows. With the exception of provisions concerning rates of payment, the provisions of s. 112.061 are applicable to the travel described in this paragraph.

(d) Undertake marketing research and advertising research studies and provide reservations services and convention and meetings booking services consistent with the authorized uses of revenue as set forth in subsection (5).

1. Information given to a county tourism promotion agency which, if released, would reveal the identity of persons or entities who provide data or other information as a response to a sales promotion effort, an advertisement, or a research project or whose names, addresses, meeting or convention plan information or accommodations or other visitation needs become booking or reservation list data, is exempt from s.119.07(1) and from s. 24(a), Art. I of the State Constitution.

2. The following information, when held by a county tourism promotion agency, is exempt from s. 119.07(1) and from s. 24(a), Art I of the State Constitution:

- a. A trade secret, as defined in s. 812.081.
- b. Booking business records, as defined in s. 255.047.
- c. Trade secrets and commercial or financial information gathered from a person and privileged or confidential, as defined and interpreted under 5 U.S.C. s. 552(b)(4), or any amendments thereto.

(10) LOCAL ADMINISTRATION OF TAX.--

(a) A county levying a tax under this section or s 125.0108 may be exempted from the requirements of the respective section that:

1. The tax collected be remitted to the Department of Revenue before being returned to the county; and

2. The tax be administered according to chapter 212, if the county adopts an ordinance providing for the local collection and administration of the tax.

(b) The ordinance shall include provision for, but need not be limited to:

1. Initial collection of the tax to be made in the same manner as the tax imposed under chapter 212.

2. Designation of the local official to whom the tax shall be remitted, and that official's powers and duties with respect thereto. Tax revenues may be used only in accordance with the provisions of this section.

3. Requirements respecting the keeping of appropriate books, records, and accounts by those responsible for collecting and administering the tax.

4. Provision for payment of a dealer's credit as required under chapter 212.

5. A portion of the tax collected may be retained by the county for costs of administration, but such portion shall not exceed three percent of collections.

(c) A county adopting an ordinance providing for the collection and administration of the tax on a local basis shall also adopt an ordinance electing either to assume all responsibility for auditing the records and accounts of dealers, and assessing, collecting, and enforcing payments of delinquent taxes, or to delegate such authority to the Department of Revenue. If the county elects to assume such responsibility, it shall be bound by all rules promulgated by the Department Of Revenue pursuant to paragraph (3)(k), as well as those rules pertaining to the sales and use tax on transient rentals imposed by s. 212.03. The county may use any power granted in this section to the department to determine the amount of tax, penalties, and interest to be paid by each dealer and to enforce payment of such tax, penalties, and interest. The county may use a certified public accountant licensed in this state in the administration of its statutory duties and responsibilities. Such certified public accountants are bound by the same confidentiality requirements and subject to the same penalties as the county under s.213.053. If the county delegates such authority to the department, the department shall distribute any collections so received, less costs of administration, to the county. The amount deducted for costs of administration by the department shall be used only for those costs which are solely and directly attributable to auditing, assessing, collecting, processing, and enforcing payments of delinquent taxes authorized in this section. If a county elects to delegate such authority to the department, the department shall audit only those businesses in the county that it audits pursuant to chapter 212.

(11) INTEREST PAID ON DISTRIBUTIONS.--

(a) Interest shall be paid on undistributed taxes collected and remitted to the Department of Revenue under this section. Such interest shall be included along with the tax proceeds distributed to the counties and shall be paid from moneys transferred from the General Revenue Fund. The department shall calculate the interest for net tax distributions using the average daily rate that was earned by the State Treasury for the preceding calendar quarter and paid to the General Revenue Fund. This rate shall be certified by the treasurer to the department by the 20th day following the close of each quarter.

(b) The interest applicable to taxes collected under this section shall be calculated by multiplying the tax amounts to be distributed times the daily rate times the number of days after the third working day following the date the tax is due and payable pursuant to s. 212.11 until the date the department issues a voucher to request the Comptroller to issue the payment warrant. The warrant shall be issued with 7 days after the request.

(c) If an overdistribution of taxes is made by the department, interest shall be paid on the overpaid amount beginning on the date the warrant including the overpayment was issue until the third working day following the due date of the payment period from which the overpayment is being deducted. The interest on an overpayment shall be calculated using the

average daily rate from the applicable calendar quarter and shall be deducted from moneys distributed to the county under this section.

**History.** - ss 1,2,3,4,5,6,7,8, ch 77-209; s. 3, ch. 79-359; s. 72, ch. 79-400; s. 4, ch. 80-209; s. 2, ch. 80-222; s. 5, ch. 83-297; s. 1, ch. 83-321; s. 40, ch. 85-55; s. 1, ch. 86-4; s. 76, ch. 86-163; s. 61, ch. 87-6; s. 1, ch. 87-99; s. 35, ch. 87-101; s. 1, ch. 87-175; s. 5, ch. 87-280; s. 4, ch. 88-226; s. 6, ch. 88-243; s. 2, ch. 89-217; ss 31, 66, ch. 89-356; s. 2, ch. 89-362; s. 1, ch. 90-107; s. 1, ch. 90-349; s. 81, ch. 91-45; s. 230, ch. 91-224; s. 3, ch. 92-175; s. 1, ch. 92-204; s. 32, ch. 92-320; s. 4, ch. 93-233; s. 1, ch. 94-275; s. 3, ch. 94-314; s. 37, ch. 94-338; s. 3, ch. 94-353; s. 1, ch. 95-133; s. 1434, ch. 95-147; s. 3, ch. 95-304; s. 1, ch. 95-360; s. 1, ch. 95-416; ss. 44, 46, ch. 96-397; s. 43, ch. 96-406; s. 15, ch. 97-99; s. 1, ch. 98-106; s. 58, ch. 99-2; s. 1, ch. 99-287; ss. 6, 11, 14, ch. 2000-312; s. 11, ch. 2000-351.

Note.—Section 11, ch. 2000-312, provides that “[t]he provisions of this act shall be reviewed by the Legislature prior to October 1, 2005, and shall be repealed on that date unless otherwise reenacted by the Legislature.” If the provisions of ch. 2000-312 are repealed, effective October 1, 2005, paragraph (6)(d), subsection (7), and paragraph (10)(c) will read:

In any case where a referendum levying and imposing the tax has been approved pursuant to this section and 15 percent of the electors in the county or 15 percent of the electors in the subcounty a special district in which the tax is levied file a petition with the board of county commissioners for a referendum to repeal the tax, the board of county commissioners shall cause an election to be held for the repeal of the tax which election shall be subject only to the outstanding bonds for which the tax has been pledged.

(7) AUTOMATIC EXPIRATION ON RETIREMENT OF BONDS. -- Anything in this section to the contrary notwithstanding, if the plan for tourist development approved by the governing board of the county, as amended from the time to time pursuant to paragraph (4)(d), includes the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, or auditorium or a museum that is publicly owned and operated by a not-for-profit organization, the county ordinance levying and imposing the tax shall automatically expire upon the retirement of all bonds issued by the county for financing the same; however, nothing herein shall preclude that county from enacting an ordinance pursuant to the provisions of this section reimposing a tourist development tax, upon or following the expiration of the previous ordinance.

\* \* \* \* \*

(c) A county adopting an ordinance providing for the collection and administration of the tax on a local basis shall also adopt an ordinance electing either to assume all responsibility for auditing the records and accounts of dealers, and assessing, collecting, and enforcing payments of delinquent taxes, or to delegate such authority to the Department of Revenue. If the county elects to assume such responsibility, it shall be bound by all rules promulgated by the Department of Revenue pursuant to paragraph (3)(k), as well as those rules pertaining to the sales and use tax on transient rentals imposed by s.212.03. The county may use any power granted in this section to the department to determine the amount of tax, penalties, and interest. If the county delegates such authority to the department, the department shall distribute any collections so received, less costs of administration, to the county. The amount deducted for costs of administration by the department shall be used only for those costs which are solely and directly attributable to auditing, assessing, collecting, processing, and enforcing payments of delinquent taxes authorized in this section. If a county elects to delegate such authority to the

department, the department shall audit only those businesses in the county that it audits pursuant the chapter 212.

updated May 7, 2001

*State Statute Enabling Act*  
*>>Continued*

# **Monroe County Ordinances**

## **Relating to TDC**





**ORDINANCE NO. 020 - 1993**

AN ORDINANCE AMENDING THE TOURIST DEVELOPMENT PLAN, SECTION 2-300(B)(4), MONROE COUNTY CODE DELETING THE RESTRICTION ON 35% OF THE FIRST TWO CENTS THAT FUNDS BE DISTRIBUTED BY DISTRICT PERCENTAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES INCONSISTENT HERewith; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE; AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, that:

Section 1. Section 2-300(B)(4) of the Monroe County Code is hereby amended to read as follows: (4) The remaining thirty-five (35) percent of the first two cents (\$0.02) net revenue constitute the events budget, including public relations fees and expenses and mail fulfillment consumer expenses.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 4. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 5. This ordinance shall take effect immediately upon receipt of official notice from the Office of the Secretary of State of the State of Florida that this ordinance has been filed with said Office.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said Board held on the 16th day of August , A.D., 1994.

Mayor London	yes
Mayor Pro Tem Cheal	yes
Commissioner Freeman	yes
Commissioner Harvey	yes
Commissioner Reich	yes

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

by Jack London  
Mayor/Chairman

ADOPTED: 07/06/93

**ORDINANCE NO. 003-1993**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA AMENDING MONROE COUNTY CODE SECTION 2-299(D) AND (E) AND SECTION 2-300 (B)(7), DELETING LANGUAGE WHICH APPEARS TO CONFER UPON TOURIST DEVELOPMENT COUNCIL AUTHORITY TO EMPLOY AND CONTRACT FOR ADMINISTRATIVE SERVICES, AND DELETING RESTRICTION UPON THIRD CENT EXPENDITURES ONLY UPON RECOMMENDATION OF DISTRICT ADVISORY BOARD; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES INCONSISTENT HEREWITH; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, that the Monroe County Tourist Development Plan, codified in the Monroe County Code, is hereby amended as follows:

Section 1. Section 2-299(D) of the Monroe County Code is hereby amended as follows:

(D) There is hereby created an executive office for the tourist development council. The governing board of Monroe County shall employ by contract, or establish a County Department and employ, an executive director AND such other personnel as may be required to operate the executive office. Any contract for employment entered into by and between the executive director or other personnel authorized by this article shall provide that such director and personnel will be responsible and answerable directly to the tourist development council and indirectly to the Board of County Commissioners. If contracted, such persons shall serve at the pleasure of and be subject to removal by the governing board of the County. The tourist development council may make recommendations concerning the contracts. The executive director shall carry out the policies and programs established by the council and shall be in charge of the day-to-day operations of those policies and programs. The executive director and the staff of the executive office of the tourist development council shall be compensated and the costs and expense of the operation of the executive office shall be paid from the proceeds of the tourist development tax prior to any other use or distribution thereof. In the furtherance of the provision of this section, the amount to be expended shall not exceed seven (7) percent of the annual two-cent budget and three (3) percent of the annual third-cent budget.

Section 2. Section 2-299(E) of the Monroe County Code is hereby amended as follows:

(E) For the purpose of rendering the services through the executive office created by subsection (D), such executive director, as is provided for therein, shall be either an individual or a corporation, which shall furnish the services required by the tourist development council for the executive office thereof. Any such contract entered into for the executive director to operate such executive office shall be executed by the governing board of Monroe County, Florida. The tourist development council shall make recommendations concerning contracts and/or

employment for the executive director and personnel but shall have not final authority to require implementation of its recommendation.

Section 3. Section 2-300(B)(7) of the Monroe County code is hereby amended as follows:

(7) Upon the recommendation of the advisory board for the district, the remaining balance of the third-cent net revenue shall be expended for the district from which it is generated for the purposes authorized in subsection (A)(2) of this section, but the Advisory board shall have no final authority to require implementation of this recommendation.

Section 4. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 5. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 6. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 7. This ordinance shall take effect immediately upon receipt of official notice from the Office of the Secretary of State of Florida that this Ordinance has been filed with said Office.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said Board held on the 9th day of February, A.D., 1993.

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

By Jack London  
MAYOR/CHAIRMAN

ADOPTED: 2-9-93

FILED WITH SECRETARY OF STATE: \_\_\_\_\_

EFFECTIVE DATE: 2-25-93

**ORDINANCE NO. 015-1988**

AN ORDINANCE OF MONROE COUNTY, FLORIDA, AMENDING ARTICLE VIII, MONROE COUNTY CODE, ENTITLED "TOURIST DEVELOPMENT TAX"; PROVIDING FOR THE LEVY OF A TOURIST DEVELOPMENT TAX; PROVIDING FOR THE COLLECTION OF SAID TAX; ESTABLISHING THE MONROE COUNTY TOURIST DEVELOPMENT COUNCIL; ESTABLISHING PENALTIES AND LIENS; PROVIDING FOR THE REPEAL OF THE TOURIST DEVELOPMENT TAX; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES OR PARTS IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

...

WHEREAS, Pursuant to Section 125.0104, Florida Statutes, the Board of County Commissioners of Monroe County, Florida through numerous ordinances created Article VIII, Monroe County Code, levying a tourist development tax and providing for the management and expenditure of said tax revenues, and

WHEREAS, many of the one time mandates found in Article VIII have been met and numerous sections of Article VIII are outdated and no longer have any affect, and

WHEREAS, it is desirous to formulate a new tourist development ordinance.  
BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, as follows:

Section 1. Article VIII, Sections 2-297 through Section 2-302 are hereby amended to read as follows:

ARTICLE VIII. TOURIST DEVELOPMENT TAX

Section 2-297 Levy of tourist development tax.

(A) There shall be levied throughout the incorporated and unincorporated areas of Monroe County, Florida, a tourist development tax at a rate of three (3) percent of each whole and major fraction of each dollar of the total rental charged every person who rents, leases or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment motel, rooming house, tourist or trailer camp or condominium for a term of six (6) months or less. When receipt of consideration is by way of property other than money, the tax shall be levied on the fair market value of such nonmonetary consideration.

(B) The tourist development tax shall be in addition to any other tax levied pursuant to Chapter 212, Florida Statutes, and in addition to all other taxes, fees and the considerations for rental or lease.

(C) The tourist development tax shall be charged by the person receiving the consideration for the lease or rental, and it shall be collected from the lessee, tenant or customer at the time of payment of the consideration for such lease or rental.

Section 2-298. Collection.

(A) The person receiving the consideration for such rental or lease shall receive, account for and remit the tax to the State of Florida Department of Revenue at the time and in the manner provided for persons who collect and remit taxes under Section 212.03, Florida Statutes. The same duties and privileges imposed by Chapter 212, Florida Statutes, upon dealers in tangible property respecting the remission and collection of tax, the making of returns, the keeping of books, records and accounts, and compliance with the rules of the Florida Department of Revenue in the administration of said chapter shall apply to and be binding upon all persons who are subject to the provision of this article; provided, however, the Department of Revenue may authorize a quarterly return and payment when the tax remitted by the person received the consideration for such rental or lease for the preceding quarter did not exceed twenty-five dollars (\$25.00).

(B) Pursuant to Section 125.0104, Florida Statutes, the department of revenue shall keep records showing the amount of taxes collected. These records shall be open to the public during the regular office hours of the department of revenue as provided in Section 213.072, Florida Statutes.

(C) Collections received by the department of revenue from the tax, less costs of administration of this article, shall be paid and returned, on a monthly basis, to the county clerk of the governing board of Monroe County, Florida, for use by the county in accordance with the provision of this article and shall be placed in the "Monroe County Tourist Development Trust Fund."

(D) The said department of revenue, under the applicable rules of the career service commission, is authorized to employ persons and incur other expenses as appropriated by the legislature of the State of Florida to administer this article.

(E) The department of revenue may promulgate such rules and may prescribe and publish such forms as may be necessary to effectuate the purposes of this article.

Section 2-299. Monroe County Tourist Development Council.

(A) Pursuant to Florida Statutes, Section 125.0104(4)(c), the governing board of Monroe County appointed an advisory council known as the Monroe County Tourist Development Council by Resolution No. 198-1981, on June 16, 1981.

(B)(1) The Monroe County Tourist Development Council, following the expiration of terms of its members heretofore established and appointed, shall be composed of nine (9) members. Eight members of the Board shall be appointed by the governing board of Monroe County based on a percentage of the funds collected throughout the five tax collection districts, as set forth in Ordinance No. 8-1985. Each tax collection district shall have no less than one representative, who is a resident of the district, on the council. The ninth member of the council shall be the chairman of the governing board as designated by the chairman. Two members of the council shall be elected municipal officials, one of whom shall be from the most populous municipality in the County. Three members of the council shall be owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the County and subject to the tax, one of whom shall be engaged in the accommodations industry within the City of Key West. Three members of the council shall be persons who are involved in the tourist industry and who

have demonstrated an interest in tourist development, but who are not owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the County or subject to the tax. All members of the council shall be electors of the County. The governing board of the County shall allow the council to elect a chairman. The chairman shall be elected annually and may be re-elected.

(2) The members of the council shall serve for staggered terms of four (4) years. The council shall meet at least once each quarter and, from time to time, shall make recommendations to the county governing board for the effective operation of the special projects or for uses of the tourist development tax revenue and perform such other duties as may be prescribed by county ordinance or resolution. The changes in the composition of the membership of the tourist development council mandated by this article shall not cause the interruption of the current term of any person who is a member of the council on the effective date of this article.

(3) All district vacancies occurring on the tourist development council shall be filled by a district resident who is also qualified under the terms of Florida Statutes, Section 125.0104(4)(e). In addition to the vacancies described in section 2-299(B4), a seat shall also be considered vacant when a member moves out of the district which he or she represents.

(4) Any member of the tourist development council other than the chairman who absents himself from any three (3) consecutive regular meetings of said tourist development council, expressed by action of record in its official minutes, or who is absent from a total of four (4) regular meetings of said council in any fiscal year without having been excused from such attendance by consent of the council expressed by action of record in its official minutes, shall thereby automatically forfeit his position and office as a member of the tourist development council; and the name of such person shall be automatically removed from the membership of said council immediately after the adjournment of any such third consecutive meeting or any such fourth meeting in any fiscal year, as the case may be, at which such member has not appeared. The council shall thereupon promptly notify the member so removed, and the governing board of Monroe County shall thereupon appoint a new member to serve the remainder of the unexpired term of the member so removed.

(C) The council shall continuously review expenditures of revenues from the tourist development trust fund and shall submit, at least quarterly, expenditure reports to the county governing board or its designee. Expenditures which the council believes to be unauthorized shall be reported to the county governing board and the Department of Revenue. The governing board and the Department shall review the findings of the council and take appropriate administrative or judicial action to ensure compliance with this section.

(D) There is hereby created an executive office for the tourist development council. The governing board of the county shall employ by contract, or establish a county department and employ, an executive director and such other personnel as may be required to operate the executive office. Any contract for employment entered into by and between the executive director or other personnel authorized by this article shall provide that such director and personnel will be responsible and answerable directly to the tourist development council and indirectly to the board of county commissioners. If contracted, such persons shall serve at the pleasure of and be subject to removal by the governing board of the county. The tourist development council may make recommendations concerning the contracts. The executive director shall carry out the policies and programs established by the council and shall be in

charge of the day-to-day operations of those policies and programs. The executive director and the staff of the executive office shall be paid from the proceeds of the tourist development tax prior to any other use or distribution thereof. In the furtherance of the provision of this section, the amount to be expended shall not exceed seven (7) percent of the annual two cent budget and three (3) percent of the annual third-cent budget.

(E) For the purpose of rendering the services through the executive office created by subsection (D), such executive director, as is provided for therein, shall be either an individual or a corporation, which shall furnish the services required by the tourist development council for the executive office, thereof. Any such contract entered into for the executive director to operate such executive office shall be recommended by the tourist development council and approve by the governing board of Monroe County, Florida.

(F) Advisory Committees may be created by the various Chambers of Commerce throughout Monroe County to make recommendations to the Tourist Development Council concerning the expenditure of the tax funds herein collected in their respective voting district.

(G) The geographical boundaries of the tax collection districts referred to in subsection (B)(1) and else where throughout this Article shall be:

- 1) District I - shall encompass the city limits of Key West;
  - 2) District II - from the city limits of Key West to the west end of the Seven Mile Bridge;
  - 3) District III - from the West end of the Seven Mile Bridge to the Long Key Bridge;
  - 4) District IV - between the Long Key Bridge and mile marker 90.7 (BOCC: 11/22/2000)
  - 5) District V - from mile marker 90.7 to the Dade/Monroe County line and any mainland portions of Monroe County (BOCC: 11/22/2000)
- Section 2-300. Tourist Development Plan.

(A) Authorized uses of revenue

(1) The first two cents (\$0.02) of the three-cent tax shall be spent:

(a) To promote and advertise Monroe County tourism within domestic and international markets;

(b) To promote county festivals, tournaments, races and other tourist related activities;

(c) To promote tourist-oriented cultural events such as visual and performing arts, including but not limited to theater, concerts, recitals, opera, dance, and art exhibitions.

(2) The third cent of the three cent tax shall be expended as follows:

(a) To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, auditoriums, or museums within the boundaries of the county or subcounty special taxing district in which the tax is levied. However, these purposes may be implemented through service contracts and leases with persons who maintain and operate adequate existing facilities.

(b) To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county.

(c) To finance beach improvement, maintenance, renourishment, restoration, and erosion control.

(d) To finance fishing piers.

(e) To advertise and promote the district and/or the county within domestic and international markets.

(f) To promote county festivals, tournaments races and other tourist related activities.

(g) To promote county tourist-oriented cultural events such as visual and performing arts, including but not limited to theater, concerts, recitals, opera, dance, and art exhibition.

#### *(B) Percent Allocations*

(1) 5% (five percent) of the first two cents (\$0.02) gross revenue shall be held outside of the receipts division of the budget as per Florida Statue 129.01.

(2) Up to 7% (seven percent) of the first two cents (\$0.02) net revenue of the resort tax two- penny program prior to distribution is to be used for the Administrative Contract, Board Members Travel, Administrative Computer Programming, Dues and Subscriptions, Statistics, Administrative Advertising (meeting notices, budget amendments, etc.)

(3) 65% (sixty-five percent) of the first two cents (\$0.02) net revenue is for Advertising Nationally and Internationally, Trade Mail Fulfillment, and Trade Show Expenditures.

(4) The remaining 35% (thirty-five percent) of the first two cents (\$0.02) net revenue constitute the Events Budget, including Public Relations Fees and Expenses and Mail Fulfillment Consumer Expenses. These funds shall be distributed, by district percentages for the purpose of Event Activities and Cultural Events.

(5) 5% (five percent) of the third cent gross revenue shall be held outside of the receipts division of the budget as per Florida Statute 129.01.

(6) Up to 3% (three percent) of the third cent gross revenue shall be maintained for administration of third cent expenditures.

(7) Upon the recommendation of the Advisory Board for the District, the remaining balance of the third cent gross revenue shall be expended for the district from which it is generated for the purposes authorized in subsection (A)(2) of this section. (see Ordinance No. 003-1993, page 18)

(8) A separate account shall be established for the administration of the third cent gross revenue.

#### Section 2-301. Penalties and Liens.

(A) Any person who is taxable hereunder who fails or refuses to charge and collect from the person paying any rental or lease the taxes herein provided, either by himself or through his agents or employees, shall be, in addition to being personally liable for the payment of the tax, guilty of a misdemeanor of the second degree, punishable as provided in section 775.082, section 775.083 or section 775.084, Florida Statutes.



(B) No person shall advertise or hold out to the public in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the person of paying the rental of the payment of all or nay part of the tax, or that the tax will not be added to the rental or lease consideration, or when added, that it or any part thereof will be refunded or refused, either directly, or indirectly, by any method whatsoever. Any person who willfully violates any provision of this subsection shall be guilty of a misdemeanor of the second degree, punishable as provided in section 775.082, section 775.083, or section 775.084, Florida Statutes.

Section 2-302. Repeal of the Tourist Development Tax.

(A) Upon petition of fifteen (15) percent of the electors in the unincorporated and incorporated areas of Monroe County, the Board of County Commissioners shall cause an election to be held for the repeal of the tourist development tax.

Section 2. Section 2-303 through 2-312, Monroe County Code, are hereby repealed, and Section 2-313 and all remaining sections are to be renumbered.

Section 3. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of this Ordinance shall not be affected by such invalidity.

Section 4. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

Section 5. The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 6. This Ordinance shall take effect immediately upon receipt of official notice from the Office of the Secretary of State of the State of Florida that this Ordinance has been filed with said Office.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said Board held on the 16th day of February, A.D., 1988.

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

By Eugene Lytton  
MAYOR/CHAIRMAN

ADOPTED: 2-16-88

FILED WITH SECRETARY OF STATE: 2-24-88

EFFECTIVE DATE: 2-26-88

**ORDINANCE NO. 017-1988**

AN ORDINANCE OF MONROE COUNTY, FLORIDA, DECLARING THAT AN EMERGENCY EXISTS AND WAIVING NOTICE BY A FOUR-FIFTHS VOTE; AMENDING SECTION 1 OF ORDINANCE NO. 015-1988 BY AMENDING SECTION 2-300(B)(6) AND (7) THEREOF; AMENDING SECTION 2 OF SAID ORDINANCE; AND ADDING A NEW SECTION 3 TO SAID ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES OR PARTS IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

•••

WHEREAS, an emergency is hereby declared and notice waived by a four-fifth's vote, now, therefore,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, as follows:

Section 1. That an emergency is hereby declared and notice waived by a four-fifth's vote.

Section 2. Section 1 of Ordinance No. 015-1988 is hereby amended by amending Section 2-300(b)(6) and (7) as follows:

(6) Up to 3% (three percent) of the third cent net revenue shall be maintained for administration of third cent expenditures.

(7) Upon the recommendation of the Advisory Board for the District, the remaining balance of the third cent net revenue shall be expended for the district from which it is generated for the purposes authorized in subsection (A)(2) of this section, and only upon recommendation of the Advisory Board of that District."

Section 3. Section 2 of Ordinance No. 015-1988 is hereby amended to read as follows:

Section 2. Sections 2-303 through 2-312, Monroe County Code, are hereby repealed. Section 2-313, Monroe County Code, is hereby amended to read as follows: This ordinance may not be substantially amended except by ordinance enacted by a four-fifth's majority vote of the Board of County Commissioners."

Section 3. Ordinance NO. 015-1988 is hereby amended by adding a new Section 3 to read as follows:

Section 4. The percent allocation provisions enumerated in Section 2-300(B) shall not take effect or be implemented until October 1, 1988."

Section 5. If any section , subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this Ordinance shall not be affected by such invalidity.

Section 6. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

Section 7. The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 8. This Ordinance shall take effect when a certified copy has been accepted by the postal authorities of the Government of the United States for special delivery by registered mail to the Secretary of State of the State of Florida.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a special meeting of said Board held on the 23rd day of February, A.D., 1988.

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

By Eugene Lytton  
MAYOR/CHAIRMAN

ADOPTED: 2-23-88

FILED WITH SECRETARY OF STATE: 2-29-88

EFFECTIVE DATE: 2-29-88

**OTHER MONROE COUNTY ORDINANCES & RESOLUTIONS**  
**RELATING TO TDC**

Complete Ordinances and Resolutions on file and available at Administrative Office.

**ORDINANCE NO. 015-1988**

An Ordinance of Monroe County, Florida, amending Article VIII, Monroe County Code, entitled "Tourist Development Tax"; providing for the levy of a tourist development tax; providing for the collection of said tax; establishing the Monroe County Tourist Development Council; establishing penalties and liens; providing for the repeal of the tourist development tax; providing for Severability; providing for repeal of all ordinances or parts in conflict with this ordinance; and providing for an effective date.

**ORDINANCE NO. 017-1988**

An Ordinance of Monroe County, Florida, declaring that an emergency exists and waiving notice by a four-fifths vote; amending Section 1 of Ordinance No 105-1988 by amending Section 2-300(B) (6) and (7) thereof; amending Section 2 of said ordinance; and adding a new Section 3 to said ordinance; providing for Severability; providing for repeal of all ordinances or parts in conflict with this ordinance; providing for inclusion in the Monroe County Code; and providing for an effective date.

The above listed ordinances replaced all of the following ordinances:

**ORDINANCE NO. 9-1981**

An Ordinance of Monroe County, Florida, imposing and levying a tourist development tax in the City of Key West, Monroe County, Florida, pursuant to the Florida Local Option Tourist Development Act, Florida Statutes 125.0104; providing for the collection of said tax; providing that the revenue so raised shall be utilized to implement the Monroe County Tourist Development plan; providing for referendum election to impose and levy the tax; providing for referendum election to repeal the tax; providing for Severability of Ordinance provisions; providing an effective date. Adopted September 22, 1981, filed with Secretary of State October 9, 1981.

**ORDINANCE NO. 009-1984**

An Ordinance amending Ordinance No. 9-1981 to provide that the tourist development tax imposed in the aforesaid ordinance by virtue of Florida Statute 125.0104 may be levied and collected in all of Monroe County; amending Subsection A and B of Section 4; providing for the distribution plan of tax funds collected; amending Section 6 entitled "referendum" to provide that the aforesaid section shall henceforth apply to all of Monroe County; providing for severability; and providing for an effective date.

**ORDINANCE NO. 031-1984**

An Ordinance amending Ordinance No. 9-1981, as amended by Ordinance No. 009-1984, to provide for the removal of a member of the Tourist Development Council upon failure to attend meetings; creating an Executive Office for the Tourist Development Council; authorizing the Tourist Development Council to employ an Executive Director and necessary staff; ratifying Ordinance No. 009-1984 and Ordinance No. 9-1981; providing for severability; and providing an effective date. Adopted December 14, 1984, filed with Secretary of State December 28, 1984.

**ORDINANCE NO. 008-1985**

An Ordinance amending Ordinance No. 031-1984, Section 2, to provide an additional paragraph thereto; providing that the Executive Director set forth therein may be either an individual or a corporation for the purposes of contracting for the services of said Executive Director; providing for severability; repealing all ordinances or parts of ordinances in conflict with this Ordinance to the extent of said conflict; providing for inclusion in the Monroe County code of Ordinances; and providing an effective date. Adopted April 12, 1985 and filed with Secretary of State April 22, 1985.

**ORDINANCE NO. 036-1985**

An Ordinance of Monroe County, Florida, amending Ordinance No. 9-1981, as amended by Ordinance No. 009-1984 and Ordinance No. 008-1985, codified as Article VIII of Chapter 2 of the Monroe County Code of Ordinances, in order to provide for County-wide representation on the Monroe County Tourist Development Council; providing for length of term; providing for replacement appointments when a member moves from his or her district; providing for severability, providing for repeal of all Ordinances or parts of Ordinances in conflict with this Ordinance to the extent of any such conflict; providing for inclusion of this Ordinance in the Monroe County Code of Ordinances; and providing for an effective date.

**RESOLUTION NO. 166-1985**

A Resolution relating to Monroe County, Florida, providing for reimbursement for travel of members of the Tourist Development Council as per Florida Statute Chapter 112, and as provided in Monroe County Ordinance No. 26-1977. Passed and adopted on May 24, 1985.

**ORDINANCE NO. 032A-1986**

An Ordinance amending Article VII, Division 1, Section 2-297(A) and adding Subsection(D), Monroe County Code, to provide that the additional tourist development tax imposed by Florida Statutes. Section 125.0104(3) (d) (1986), shall be levied and collected within the City of Key West, Florida; providing for severability; providing for the repeal of all Ordinances or parts of Ordinances in conflict with this Ordinance; and providing for an effective date.

**ORDINANCE NO. 016-1987**

An Ordinance declaring an emergency exists and waiving notice by a four-fifths vote; levying an additional one cent tourist development tax on the lease or rental of temporary accommodations rented or leased for a period of less than six months; providing that such tax shall be in addition to all other taxes and fees charged; providing for collection; providing for expenditure of the funds so raised for certain tourist development purposes; further providing for the distribution of funds so collected; providing for penalties; providing for severability; providing for the repeal of all Ordinances inconsistent herewith; providing for incorporation into the Monroe County Code; and providing an effective date.

**RESOLUTION NO. 247-1988**

A Resolution relative to the Third Cent Tourist Tax to be expended only by the District in which it has been generated and only for the district in which it has been collected. That Ordinance No. 015-1988 is the lawful decision of the legislative and governing body of Monroe County, founded upon appropriate legislative findings and due consideration of the peculiar and prevailing local conditions and needs and based on Attorney General Opinion 87-16 of the State of Florida, is not subject to interpretation by the Tourist Development Council, nor the Executive director of the Tourist Development Council, as to intent, purpose, methods of use and authorized uses, except by the Board.

The following ordinances have amended Ordinance No. 15-1988, as indicated in the synopsis of each ordinance.

**ORDINANCE NO. 026-1990**

An Ordinance amending Ordinance No. 15-1988, as amended, providing for local administration and collection of the Tourist Development Tax, providing for auditing, record keeping and cost of administration; providing for severability; providing for repeal of all ordinances inconsistent herewith; providing for incorporation into the Monroe County Code; and providing an effective date.

**ORDINANCE NO. 028-1990**

An Ordinance amending Section 2-300, of the Monroe County Code (Tourist Development Plan), in order to add to the Third Cent authorized expenditures for publicly owned and operated and not-for-profit owned and operated museums, zoological parks, fishing piers or nature centers; providing for severability; providing for repeal of all ordinances inconsistent herewith; providing for incorporation into the Monroe County code; and providing an effective date.

**RESOLUTION NO. 125-1987**

A Resolution exempting and waiving any prohibitions concerning conflict of interest for the present members of the Tourist Development Council.

**RESOLUTION NO. 397-1990**

A Resolution of the Board of County Commissioners of Monroe County, Florida, directing that certain Tourist Development Council expenditures which have previously been authorized by the Board of County Commissioners as explicit contractual functions and/or by explicit budgetary line item authorizations in budgets attached to such contracts are to be immediately processed for payment.

**RESOLUTION NO. 258 –1993**

A resolution providing procedure for the selection of Tourist Development Council Members.

WHEREAS, Florida Statute 125.0104(4)(e) provides that the Tourist Development Council shall be composed of nine (9) members who shall be appointed by the Board of County Commissioners, and

WHEREAS, Monroe County Code Section 2-299 provides that the Tourist Development Council members shall be appointed by the governing board of Monroe County, and

WHEREAS, Section 2-299 of the Monroe County Code further requires that in addition to the statutory requirements, the members of the Tourist Development Council represent each tax collection district of the five (5) tax collection districts in the County and further require that one (1) of the members of the Tourist Development Council be engaged in the accommodation industry within the City of Key West, and

WHEREAS, the above requirements are in addition to the statutory requirements contained in the Florida Statutes, and

WHEREAS, the Board has in the past acquiesced in the nominee selected by each of the Commissioners who reside in the particular tax districts, and

WHEREAS, this has in the past generated certain confusion as to who has the right to select, and

WHEREAS, it is clear from the language of both the ordinance above-referenced and the statute that the Monroe County Commission shall be the entity that has the power to appoint, and

WHEREAS, the Commission desires that a written policy be established with respect to the selection of Tourist Development Council members, now, therefore,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, that three (3) of the officials are essentially selected by the statute in that one is the Chairman of the Board of County Commissioners and two (2) are representatives of municipalities located within the County, one (1) of which is the most populous municipality, these nominations shall be and remain the nominations of the Board of County Commissioners.

BE IT FURTHER RESOLVED that of the remaining six (6) nominations, one (1) nominee shall be selected by each of the several Commissioners and the Mayor shall have the right to select a second nominee in his capacity as Mayor. These six (6) nominations shall satisfy the statutory requirements with respect to occupation as well as the ordinance requirement with respect to geographic locale, and shall be the Board's appointees to the Tourist Development Council.

**ORDINANCE NO. 045 - 1995**

An ordinance amending section 2-299(F); revising the manner of appointments to district advisory committees; providing for severability; providing for the repeal of all ordinances inconsistent herewith; providing for incorporation into the Monroe County code of ordinances; and providing an effective date.

**ORDINANCE NO. 050-1996**

An ordinance amending Section 2-299(B)(1), Monroe County Code in order to conform to recently amended statute; providing for severability; providing for the repeal of all ordinances inconsistent herewith; providing for incorporation into the Monroe County Code of Ordinances; and providing an effective date.

**ORDINANCE NO. 031 - 1998**

An ordinance amending sec. 2-300, Monroe County Code in order to allow catastrophic/emergency funds to be allocated in proportions different than normal allocations; providing for severability; providing for the repeal of all ordinances inconsistent herewith; providing for incorporation into the Monroe County Code of ordinances; and providing an effective date.

**ORDINANCE NO. 038 - 1999**

An ordinance amending Sec. 2-299 (F)(2), Advisory committees of the Tourist Development Council; providing for severability; providing for the repeal of all ordinances inconsistent herewith; providing for incorporation into the Monroe County Code of Ordinances; and providing an effective date.

**ORDINANCE NO. 052 – 2000**

An ordinance amending section 2-299 (G)(4) and (5), Monroe County code, revising the boundary between District IV and District V; providing for severability; providing for the repeal of all ordinances inconsistent herewith; providing for incorporation into the Monroe County Code of Ordinances; and providing an effective date. (BOCC: 11/22/2000)